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UNITED STATES DISTRICT COURT
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7 **EASTERN DISTRICT OF CALIFORNIA**
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9 DURRELL ANTHONY PUCKETT,

10 Plaintiff,

11 v.

12 BARAONA, *et al.*,

13 Defendants.

14 Case No. 1:21-cv-01448-ADA-BAM (PC)

15 ORDER REGARDING NOTICE TO OPT
16 OUT OF SETTLEMENT CONFERENCE
17 (ECF No. 54)

18 ORDER LIFTING STAY OF PROCEEDINGS

19 ORDER VACATING DECEMBER 7, 2022
20 SETTLEMENT CONFERENCE
21 (ECF No. 52)

22 ORDER DIRECTING CLERK OF COURT TO
23 ISSUE DISCOVERY AND SCHEDULING
24 ORDER

25 Plaintiff Durrell Anthony Puckett (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s first amended complaint against: (1) Defendants A. Baraona, R. Burnitzki,¹ R. Leos, H. Hernandez, E. Diaz, and Doe 1 for excessive force in violation of the Eighth Amendment; (2) Defendants R. Leos, for sexual assault in violation of the Eighth Amendment; and (3) Defendants A. Ruiz, R. Martinez, E. Ruiz, G. Meier,² R. Gutierrez, J. Cruz, K. Allison (Cronister), and Jane Doe Nurse for failure to protect in violation of the Eighth Amendment. All named defendants have answered the complaint.³ (ECF No. 51.)

26 ¹ Erroneously sued as “Burneszki.”

27 ² Erroneously sued as “Meiers.”

28 ³ The deadline for Plaintiff to identify Defendants Doe 1 and Jane Doe Nurse with enough information to locate those defendants for service of process was vacated on July 28, 2022, (ECF No. 49), and will be reset with the opening of discovery in this action.

On September 20, 2022, the Court identified this case as an appropriate case for the post-screening ADR (Alternative Dispute Resolution) project, and stayed the action to allow the parties an opportunity to settle their dispute before the discovery process begins. (ECF No. 52.) The Court's order granted Defendants time to investigate and determine whether to opt out of the post-screening ADR project.

On October 3, 2022, Plaintiff filed a settlement conference statement, filed under seal, which also indicated a desire to opt out of the settlement conference. (ECF No. 53.) On October 20, 2022, Defendants filed a notice to opt out of settlement conference. (ECF No. 54.) Therefore, the stay is lifted, and the December 7, 2022, settlement conference is vacated. This case is now ready to proceed.

If the parties wish to set a settlement conference with the Court at a later date, they should so inform the Court. However, the parties are also reminded that they are not precluded from negotiating a settlement without judicial assistance.

14 || Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Defendant's request to vacate settlement conference, (ECF No. 54), is GRANTED;

16 2. The stay of this action, (ECF No. 52), is LIFTED;

17 3. The December 7, 2022 settlement conference is VACATED;

18 4. The Clerk of the Court is DIRECTED to issue a discovery and scheduling order;

19 and

20 5. The parties may proceed with discovery pursuant to the discovery and scheduling

21 order to be issued by separate order.

IT IS SO ORDERED.

24 Dated: October 24, 2022

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE